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FILED August 23 20 19  
Candace Fisher  
SANDERS COUNTY CLERK OF DISTRICT COURT  
BY M. Smith  
DEPUTY

Attorneys for Plaintiff

**MONTANA TWENTIETH JUDICIAL DISTRICT COURT,  
SANDERS COUNTY**

BRIAN HUTCHINSON,

Case No.: DV 19-61

Plaintiff,

vs.

CITY OF THOMPSON FALLS,

Defendant.

**COMPLAINT and  
DEMAND FOR JURY TRIAL**

**James A. Manley**

COMES NOW the Plaintiff, Brian Hutchinson, by and through his counsel Torrance L. Coburn of TIPP COBURN & ASSOCIATES PC, and for his Complaint against the Defendant, alleges as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Brian Hutchinson (Hutchinson) at all times pertinent to this Complaint resided in the State of Montana, Sanders County.

2. Defendant City of Thompson Falls is a political subdivision of the State of Montana, with its principal office located at 108 Fullton Street, Thompson Falls, Montana 59873.

3. This action arises under the Americans with Disabilities Act (ADA) (42 U.S.C. § 12201 et seq.), and the Montana Human Rights Act (Montana Code Annotated § 49-2-303 et seq.).

1           4.       This Court is the proper venue for this matter because the Defendant transacts  
2 business in Sanders County and the events in question occurred in Sanders County.

3           5.       Hutchinson filed a charge of employment discrimination on the basis of disability  
4 and sex with the Montana Human Rights Bureau within 180 days of the alleged employment  
5 discrimination he suffered at the hands of the Defendant. Hutchinson's charge of employment  
6 discrimination was filed as Montana Human Rights Bureau Case No. 0190091.

7           6.       The Montana Human Commission issued its Final Agency Decision in HRB Case  
8 No. 0190091 on the 30<sup>th</sup> day of May, 2019.

9           7.       Hutchinson filed this Complaint within 90 days of the Montana Human Rights  
10 Final Agency Decision in in HRB Case No. 0190091.

11           8.       Hutchinson's Complaint filed herein is timely.

12                   **FACTS COMMON TO ALL CAUSES OF ACTION**

13           9.       The Plaintiff hereby incorporates by reference all statements and allegations  
14 contained herein.

15           10.      Plaintiff Hutchinson is an individual with a physical disability within the meaning  
16 of the ADA and the Montana Human Rights Act.

17           11.      Plaintiff Hutchinson is a qualified individual with a disability within the meaning  
18 of the ADA and the Montana Human Rights Act.

19           12.      Defendant is an employer within the meaning of the ADA and the Montana  
20 Human Rights Act.

21           13.      During the course of his employment, Plaintiff Hutchinson performed his job  
22 duties in a reasonable and adequate manner, and, pursuant to the Montana Human Rights Act,  
23 was an "otherwise qualified person".  
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1           14. Plaintiff Hutchinson notified the Defendant of his disability, and requested  
2 accommodations for his disability.

3           15. Despite Hutchinson's disability and his request for accommodation, the  
4 Defendant refused to accommodate Hutchinson. Moreover, the Defendant refused to engage in  
5 the interactive process required by the ADA and the Montana Human Rights Act, and simply  
6 denied Hutchinson's request for accommodation.  
7

8           16. Instead of engaging in the interactive process required by the ADA and the  
9 Montana Human Rights Act and providing accommodations for Hutchinson's disability, the  
10 Defendant terminated Hutchinson's employment on June 11, 2018.  
11

12           17. The Defendant's stated reason for terminating Hutchinson is that his disability  
13 rendered him unable to perform his job duties.

14           **COUNT ONE – FAILURE TO ACCOMMODATE IN VIOLATION OF THE**  
15           **AMERICANS WITH DISABILITIES ACT**

16           18. Hutchinson realleges, and incorporates by reference, all preceding allegations, as  
17 if fully set forth here.  
18

19           19. By refusing to engage in the interactive process required by the ADA and failing  
20 to provide reasonable accommodations to Hutchinson, the Defendant engaged in illegal  
21 discrimination in violation of the Americans with Disabilities Act.

22           20. As a result of the Defendant's discrimination against Hutchinson on the basis of  
23 his disability, Plaintiff Hutchinson suffered and continues to suffer economic losses, mental  
24 anguish, pain and suffering, and other nonpecuniary losses.  
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**COUNT TWO – FAILURE TO ACCOMMODATE IN VIOLATION OF THE  
MONTANA HUMAN RIGHTS ACT**

21. Hutchinson realleges, and incorporates by reference, all preceding allegations, as if fully set forth here.

22. By refusing to engage in the interactive process required by the Montana Human Rights Act and failing to provide reasonable accommodations to Hutchinson, the Defendant engaged in illegal discrimination in violation of the Montana Human Rights Act.

23. As a result of the Defendant's discrimination against Hutchinson on the basis of his disability, Plaintiff Hutchinson suffered and continues to suffer economic losses, mental anguish, pain and suffering, and other nonpecuniary losses.

**COUNT THREE – DISCRIMINATORY TERMINATION IN VIOLATION OF THE  
AMERICANS WITH DISABILITIES ACT**

24. Hutchinson realleges, and incorporates by reference, all preceding allegations, as if fully set forth here.

25. By refusing to engage in the interactive process required by the ADA and instead terminating Hutchinson because of his disability, the Defendant engaged in illegal discrimination in violation of the Americans with Disabilities Act.

26. As a result of the Defendant's discrimination against Hutchinson on the basis of his disability, Plaintiff Hutchinson suffered and continues to suffer economic losses, mental anguish, pain and suffering, and other nonpecuniary losses.

**COUNT FOUR – DISCRIMINATORY TERMINATION IN VIOLATION OF THE  
MONTANA HUMAN RIGHTS ACT**

27. Hutchinson realleges, and incorporates by reference, all preceding allegations, as if fully set forth here.

1           28. By refusing to engage in the interactive process required by the Montana Human  
2 Rights Act and instead terminating Hutchinson because of his disability, the Defendant engaged  
3 in illegal discrimination in violation of the Montana Human Rights Act.  
4

5           29. As a result of the Defendant's discrimination against Hutchinson on the basis of  
6 his disability, Plaintiff Hutchinson suffered and continues to suffer economic losses, mental  
7 anguish, pain and suffering, and other nonpecuniary losses.  
8

9           WHEREFORE, the Plaintiff Jay Spillers requests that this Court:

10          A. Issue a judgment declaring the Defendant's acts, policies, practices and  
11 procedures complained of above violated the Plaintiff's rights as secured by the Americans with  
12 Disabilities Act and the Montana Human Rights Act;

13          B. Grant the Plaintiff a permanent injunction enjoining the Defendant and all those  
14 acting in concert with it and at its direction from engaging in any employment policy or practice  
15 that discriminates against him on the basis of a disability;  
16

17          C. Order the Defendant to make the Plaintiff whole by providing appropriate back  
18 and front pay and reimbursement for lost pension, Social Security, Unemployment  
19 Compensation, experience, training opportunities, and other benefits in an amount to be shown at  
20 trial, and other affirmative relief including, but not limited to, reinstatement or reconsideration by  
21 the Defendants for employment opportunity;  
22

23          D. Order the Defendant to compensate the Plaintiff for all actual, consequential,  
24 compensatory, general and special damages he has suffered as a result of the Defendant's actions  
25 as alleged above;  
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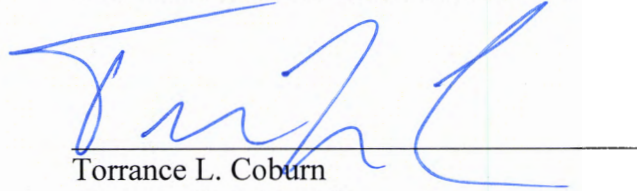
1 E. Retain jurisdiction over this action to assure full compliance with the orders of  
2 this Court and with applicable law and require the Defendant to file any reports that the Court  
3 deems necessary to evaluate compliance;  
4

5 F. Grant the Plaintiff his costs and reasonable attorney's fees incurred herein; and

6 G. Such other and further relief as this Court deems just, equitable and proper.

7 DATED this 22 day of August, 2019.

8 TIPP COBURN & ASSOCIATES PC

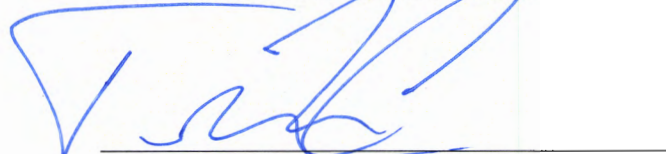
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11 Torrance L. Coburn  
12 Attorney for Plaintiff

13 **DEMAND FOR JURY TRIAL**

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15 COMES NOW the Plaintiff, by and through counsel of TIPP COBURN &  
16 ASSOCIATES PC, and demand a jury trial on all issues of fact in the above case.

17 DATED this 22 day of August, 2019.

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19 TIPP COBURN & ASSOCIATES PC

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21  
22 Torrance L. Coburn  
23 Attorney for Plaintiff